IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 6TH MARCH 2007 / 15TH PHALGUNA 1928

WP(C).No. 7437 of 2007(S)

OA.273/2003 OF CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONERS:
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1. **THE UNION OF INDIA, REP. BY THE SECRETARY TO GOVERNMENT OF INDIA, CENTRAL PUBLIC WORKS DEPARTMENT, MINISTRY OF URBAN DEVELOPMENT, NEW DELHI.**

2. **THE SENIOR ACCOUNTS OFFICER, OFFICE OF THE PAY AND ACCOUNTS OFFICER, CENTRAL PUBLIC WORKS DEPARTMENT (SOUTH ZONE), MINISTRY OF URBAN DEVELOPMENT, GOVERNMENT OF INDIA, E2-C RAJAJI BHAVAN, BESANT NAGAR, CHENNAI.**

3. **THE SUPERINTENDING ENGINEER, TRIVANDRUM CENTRAL CIRCLE, CENTRAL PUBLIC WORKS DEPARTMENT, TRIVANDRUM - 4.**

4. **THE EXECUTIVE ENGINEER, CALICUT CENTRAL DIVISION, CENTRAL P.W.D., DUTT SAW MILL ROAD, KALLAI, CALICUT - 3.**

BY ADV. SRI.THOMASMATHEW NELLIMOOTTIL,SR.PANEL.

W.P.(C). NO.7437/2007:

RESPONDENT:

V.C.KUNHAMMED, S/O.SOOPY, RESIDING AT
TAJ HOUSE, PATHIYARAKKARA, VADAKARA, PIN:673 111,
LAST EMPLOYED AS ASST.ENGINEER IN THE OFFICE OF
THE ASST.ENGINEER, CALICUT CENTRAL SUB DIVISION III
CENTRAL PUBLIC WORKS DEPARTMENT, THANA, KANNUR,
UNDER CALICUT CENTRAL DIVISION, CALICUT.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06/03/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C)No.7437 OF 2007

Dated 6th March, 2007

JUDGMENT

Koshy,J.

Respondent retired from Central Public Works Department as Assistant Engineer on 31.01.2003. When his papers were forwarded to the Accounts Officer, he noticed that excess pay was given to him as date of increment was fixed as 1.7.1986 instead of 1.1.87 and he was getting excess pay. Consequently, there was also a mistake in fixing the pay at the time of promotion. Therefore, action was taken for recovery of excess pay and according to the petitioners, the excess payment made from 1.1.1996 to 8.8.1999 was Rs.9,884/= and from 1.1.86 to 31.12.1995 was Rs.13,301/=. According to the petitioners, no mistake occurred in fixing his pay. In any event, when he was in service, no such defect in the payment was noticed. The alleged excess pay is for the period from 1986 to 1999. He retired in 2003 and recovery steps were taken only subsequently. Taking into account all aspects of the matter and considering the fact that the amount was paid not because of his fault and several years have passed, the Central Administrative Tribunal held that it cannot be recovered from the DCRG. We agree with the reasoning of the

Tribunal. In this connection, we refer to the decision of the Apex Court in **Syam Babu Varma & others** v. **Union of India and others** ((1994) 2 SCC 521). The total amount is only Rs.23,185/= and if the amount was already recovered, it was directed to be refunded. In the above circumstances, we see no ground to interfere in the impugned order in a petition under Article 227 of the Constitution of India as there is no patent illegality in the above order.

The writ petition is dismissed.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

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